

**United States District Court**  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

DAESUNG INDUSTRIAL CO., LTD. and	§	
DAESUNG CELTIC ENERSYS CO., LTD,	§	
<i>Plaintiffs,</i>	§	Civil Action No. 4:21-CV-00720
	§	Judge Mazzant
v.	§	
	§	
SAMSUNG HVAC AMERICA LLC f/k/a	§	
QUIETSIDES CORPORATION,	§	
<i>Defendants.</i>	§	

**MEMORANDUM OPINION AND ORDER**

Pending before the Court is Defendant Samsung HVAC America, LLC’s Motion to Dismiss Plaintiffs’ Complaint and Brief in Support (Dkt. #4) and Plaintiffs’ Partially Unopposed Motion for Leave to File First Amended Complaint (Dkt. #8). Having considered the motions and relevant pleadings, the Court finds Defendant’s Motion to Dismiss Plaintiffs’ Complaint and Brief in Support (Dkt. #4) should be **DENIED as moot** and Plaintiffs’ Partially Unopposed Motion for Leave to File First Amended Complaint (Dkt. #8) should be **GRANTED**.

On November 22, 2021, Defendant Samsung HVAC America, LLC (“Samsung”) moved to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(b)(7). Samsung alleged Plaintiffs Daesung Industrial Co., Ltd. and Daesung Celtic Enersys Co., Ltd. (collectively, (“Daesung”) failed to state a claim and failed to join an indispensable party, Sang Lee (“Lee”). In lieu of a response, on December 13, 2021, Daesung moved for leave to amend their complaint (Dkt. #8) and filed their First Amended Complaint (Dkt. #9). Daesung’s amended complaint adds Lee as a defendant.

On December 27, 2021, Samsung responded to Daesung’s motion to amend (Dkt. #10). Samsung correctly notes Daesung’s motion to amend was unnecessary because Rule 15(a)(1)(B)

permits a plaintiff to file an amended complaint as a matter of course within twenty-one (21) days of a defendant filing a Rule 12(b) motion, without seeking leave of the Court. FED. R. CIV. P. 15(a)(1)(B). However, Daesung declined to file as a matter of right and instead asked for leave to amend their Complaint. Thus, Samsung's response time has not yet commenced.

It is therefore **ORDERED** Plaintiffs' Partially Unopposed Motion for Leave to File First Amended Complaint (Dkt. #8) is **GRANTED**, and Plaintiffs' First Amended Complaint (Dkt. #9) is deemed filed.

It is further **ORDERED** Samsung's Motion to Dismiss Plaintiffs' Complaint and Brief in Support (Dkt. #4) is hereby **DENIED as moot**.

**IT IS SO ORDERED.**

**SIGNED this 25th day of January, 2022.**

  
AMOS L. MAZZANT  
UNITED STATES DISTRICT JUDGE